

Jennifer L. Gunter, CP  
Paralegal

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2005 NOV - 9  
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T.R.A. DOCKET ROOM

PAID T.R.A.	
Chk #	9150
Amount	25.00
Rcvd By	JP
Date	11-9-05
WRITER'S EMAIL jgunter@fostermalish.com	

November 8, 2005

Via UPS 2<sup>nd</sup> Day Air

Ms. Sharla Dillon, Docketing Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

05-00310


In Re: dPi Teleconnect, L.L.C. v. BellSouth Telecommunications, Inc.

Dear Ms. Dillon:

Please find enclosed the original and fourteen (14) copies of **dPi Teleconnect, L.L.C.'s Original Complaint**. Also enclosed is Check #9150 in the amount of \$25.00 for the filing fee. Please file this complaint and return a file-marked copy to this office; a self-addressed, stamped envelope is enclosed.

Thank you for your time and assistance. If you should have any questions, please do not hesitate to call.

Very truly yours,

  
Jennifer L. Gunter, CP  
Paralegal

Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**In the Matter of:** ) **Docket No.** \_\_\_\_\_  
 )  
**dPi Teleconnect, L.L.C. v.** )  
**BellSouth Telecommunications, Inc.** )

**DPI TELECONNECT, L.L.C.'S ORIGINAL COMPLAINT**

TO THE HONORABLE UTILITIES COMMISSION:

1. dPi Teleconnect, L.L.C. ("dPi Teleconnect," or "dPi") brings this complaint against BellSouth Telecommunications, Inc. ("BellSouth") and in support thereof, shows as follows:

**I. IDENTIFICATION OF PARTIES**

2. Complainant dPi Teleconnect, L.L.C. is a Texas corporation headquartered at 2997 LBJ Freeway, Suite 225, Dallas, Texas 75234. Designated representative for complainant is:

Christopher Malish  
Foster Malish Blair & Cowan, L.L.P.  
1403 West Sixth Street  
Austin, Texas 78703  
(512) 476-8591  
(512) 477-8657/fax  
chrismalish@fostermalish.com

3. BellSouth is an "incumbent local exchange carrier" ("ILEC") as defined by the Act. 47 U.S.C. §251(h). It is a Georgia corporation with its principal place of business in Atlanta.

**II. FACTS AND NATURE OF THE DISPUTE**

4. The parties' dispute arises under their interconnection agreement and centers on credits which are due from BellSouth to dPi Teleconnect as a result of dPi Teleconnect's reselling of services subject to BellSouth promotional discounts.
5. Among other things, dPi Teleconnect resells BellSouth's retail residential and business telephone services.

6. BellSouth has over the past months and years sold its retail services at a discount to its end users under various promotions that have lasted for more than 90 days.
7. dPi Teleconnect is entitled to purchase and resell those same services at the promotional rate, less the wholesale discount.
8. As a practical matter, dPi Teleconnect has bought these services at the regular retail rate less the resale discount, then been credited the difference between that rate and the promotional rate pursuant to "promotion credit requests."
9. After completing an audit in 2004, dPi Teleconnect noted that BellSouth had failed to issue dPi Teleconnect with hundreds of thousands of dollars worth of promotional credits to which dPi was entitled. Promotions for which credits were due but not paid included (but may not be limited to):
  - the CREX Non-Recurring promotion;
  - the Line Connection Charge Waiver promotion;
  - the Secondary Service Charge Waiver promotion; and
  - the Two Features for Free promotion.
10. On or about September 3, 2004, dPi Teleconnect sent a request to BellSouth for these credits in an amount then totaling approximately \$479,000.00.<sup>1</sup>
11. BellSouth admitted its obligation to pay the credits to dPi Teleconnect and has repeatedly promised to issue the credits to dPi Teleconnect. BellSouth has paid similar credits to other CLECs. However, despite its promises, and its treatment of other CLECs with essentially identical claims, BellSouth has in fact refused to issue the credits to dPi.
12. Exhibit A shows the total amounts dPi is due from BellSouth with regards to these

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<sup>1</sup> This figure included amounts for other BellSouth states, not just Tennessee.

promotions in this state.

**III. DPI TELECONNECT'S FIRST CAUSE OF ACTION**

13. dP1 is entitled to the above mentioned promotional credits on these telecommunications services its has purchased from BellSouth, and BellSouth has admitted as much. However, BellSouth nonetheless refuses to credit or pay dPi for these promotions. dPi accordingly requests that this Commission enter an order directing BellSouth to pay the credits together with interest at the contract rate.

**IV. CONCLUSION AND PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, based upon the foregoing and attachments hereto, dP1 Teleconnect respectfully requests and prays that following a hearing on the merits of the issues set forth above, the Commission issue a ruling:

1. that dP1 is entitled to the promotion credits it seeks to collect;
2. ordering BellSouth pay or credit dP1 those amounts, plus interest at the contract rate;  
and
3. such other and further relief to which dP1 may show itself entitled.

Respectfully submitted,

Foster Malish Blair & Cowan, L.L.P.  
1403 West Sixth Street  
Austin, Texas 78703  
(512) 476-8591/ (512) 477-8657/fax

By: 

Christopher Malish  
State Bar No. 00791164  
Attorney for Complainant

**RBOC Tracker**  
**Account QuickReport**  
All Transactions

**EXHIBIT**

**A**

Accounts Receivable  
BellSouth

Promotional

DPI Teleconnect

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Total 5D Tennessee							
Invoice	01/08/2005	5D-TN-615-20050108	BellSouth	5D-TN-615-20050108	750 00	750 00	750 00
Invoice	02/08/2005	5D-TN-615-20050208	BellSouth	5D-TN-615-20050208	790 00	790 00	1,540 00
Invoice	03/08/2005	5D-TN-615-20050308	BellSouth	5D-TN-615-20050308	775 00	775 00	2,315 00
Invoice	04/08/2005	5D-TN-615-20050408	BellSouth	5D-TN-615-20050408	960 00	960 00	3,275 00
Invoice	05/08/2005	5D-TN-615-20050508	BellSouth	5D-TN-615-20050508	1,055 00	1,055 00	4,330 00
						<u>4,330 00</u>	
Invoice	01/08/2004	LC-TN-615-20040108	BellSouth	LC-TN-615-20040108	6,283 08	6,756 00	11,086 00
Payment	05/12/2005	Direct Deposit	BellSouth	LC-TN-615-20040108		-472 92	10,613 08
Invoice	02/08/2004	LC-TN-615-20040208	BellSouth	LC-TN-615-20040208	16,666 03	21,770 50	32,383 58
Payment	05/12/2005	Direct Deposit	BellSouth	LC-TN-615-20040208		-6,313 45	26,070 13
Invoice	03/08/2004	LC-TN-615-20040308	BellSouth	LC-TN-615-20040308	21,996 45	21,996 45	48,066 58
Invoice	04/08/2004	LC-TN-615-20040408	BellSouth	LC-TN-615-20040408	9,658 12	11,362 50	59,429 08
Payment	05/12/2005	Direct Deposit	BellSouth	LC-TN-615-20040408		-1,704 38	57,724 70
Invoice	05/08/2004	LC-TN-615-20040508	BellSouth	LC-TN-615-20040508	7,989 06	8,499 00	66,223 70
Payment	05/12/2005	Direct Deposit	BellSouth	LC-TN-615-20040508		-509 94	65,713 76
Invoice	06/08/2004	LC-TN-615-20040608	BellSouth	LC-TN-615-20040608	6,354 35	6,354 35	72,068 11
Invoice	07/08/2004	LC-TN-615-20040708	BellSouth	LC-TN-615-20040708	5,169 29	6,543 40	78,611 51
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20040708		-1,374 11	77,237 40
Invoice	08/08/2004	LC-TN-615-20040808	BellSouth	LC-TN-615-20040808	2,321 50	7,034 85	84,272 25
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20040808		-4,713 35	79,558 90
Invoice	09/08/2004	LC-TN-615-20040908	BellSouth	LC-TN-615-20040908	3,293 22	6,098 55	85,657 45
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20040908		-2,805 33	82,852 12
Invoice	10/08/2004	LC-TN-615-20041008	BellSouth	LC-TN-615-20041008	4,507 77	7,512 95	90,365 07
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20041008		-3,005 18	87 359 89
Invoice	11/08/2004	LC-TN-615-20041108	BellSouth	LC-TN-615-20041108	4,000 50	5,970 90	93,330 79
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20041108		-1,970 40	91,360 39
Invoice	12/08/2004	LC-TN-615-20041208	BellSouth	LC-TN-615-20041208	4,708 78	6,115 30	97,475 69
Payment	05/16/2005	Direct Deposit	BellSouth	LC-TN-615-20041208		-1,406 52	96,069 17
Invoice	01/08/2005	LC-TN-615-20050108	BellSouth	LC-TN-615-20050108	5 927 70	5,927 70	101,996 87
Invoice	02/08/2005	LC-TN-615-20050208	BellSouth	LC-TN-615-20050208	7,340 40	7,340 40	109,337 27
Invoice	03/08/2005	LC-TN-615-20050308	BellSouth	LC-TN-615-20050308	6,596 55	6,596 55	115,933 82
Invoice	04/08/2005	LC-TN-615-20050408	BellSouth	LC-TN-615-20050408	5,354 70	5,354 70	121,288 52
Invoice	05/08/2005	LC-TN-615-20050508	BellSouth	LC-TN-615-20050508	3,544 00	3,544 00	124,832 52
Invoice	06/08/2005	LC-TN-615-20050608	BellSouth	LC-TN-615-20050608	3,368 05	3,368 05	128,200 57
Invoice	07/08/2005	LC-TN-615-2	BellSouth	LC-TN-615-20050708	4,125 00	4,125 00	132,325 57
Total LC Tennessee						<u>127,995 57</u>	
Invoice	10/08/2003	SS-TN-615-20031008	BellSouth	SS-TN-615-20031008		169 15	132,494 72
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20031008		-169 15	132,325 57
Invoice	11/08/2003	SS-TN-615-20031108	BellSouth	SS-TN-615-20031108		437 80	132,763 37
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20031108		-437 80	132,325 57
Invoice	12/08/2003	SS-TN-615-20031208	BellSouth	SS-TN-615-20031208		189 05	132,514 62
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20031208		-189 05	132,325 57

**RBOC Tracker**  
**Account QuickReport**  
**All Transactions**

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Invoice	01/08/2004	SS-TN-615-20040108	BellSouth	SS-TN-615-20040108		199 00	132,524 57
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040108		-199 00	132,325 57
Invoice	02/08/2004	SS-TN-615-20040208	BellSouth	SS-TN-615-20040208		398 00	132,723 57
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040208		-398 00	132,325 57
Invoice	03/08/2004	SS-TN-615-20040308	BellSouth	SS-TN-615-20040308	208 95	208 95	132,534 52
Invoice	04/08/2004	SS-TN-615-20040408	BellSouth	SS-TN-615-20040408		199 00	132,733 52
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040408		-199 00	132,534 52
Invoice	05/08/2004	SS-TN-615-20040508	BellSouth	SS-TN-615-20040508		199 00	132,733 52
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040508		-199 00	132,534 52
Invoice	06/08/2004	SS-TN-615-20040608	BellSouth	SS-TN-615-20040608		129 35	132,663 87
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040608		-129 35	132,534 52
Invoice	07/08/2004	SS-TN-615-20040708	BellSouth	SS-TN-615-20040708		318 40	132,852 92
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040708		-318 40	132,534 52
Invoice	08/08/2004	SS-TN-615-20040808	BellSouth	SS-TN-615-20040808		228 85	132,763 37
Payment	01/11/2005	Direct Deposit	BellSouth	SS-TN-615-20040808		-228 85	132,534 52
Invoice	09/08/2004	SS-TN-615-20040908	BellSouth	SS-TN-615-20040908		288 55	132,823 07
Payment	05/18/2005	Direct Deposit	BellSouth	SS-TN-615-20040908		-288 55	132,534 52
Invoice	10/08/2004	SS-TN-615-20041008	BellSouth	SS-TN-615-20041008		208 95	132,743 47
Payment	05/18/2005	Direct Deposit	BellSouth	SS-TN-615-20041008		-208 95	132,534 52
Invoice	11/08/2004	SS-TN-615-20041108	BellSouth	SS-TN-615-20041108		119 40	132,653 92
Payment	05/18/2005	Direct Deposit	BellSouth	SS-TN-615-20041108		-119 40	132,534 52
Invoice	12/08/2004	SS-TN-615-20041208	BellSouth	SS-TN-615-20041208	139 30	139 30	132,673 82
Invoice	01/08/2005	SS-TN-615-20050108	BellSouth	SS-TN-615-20050108	159 20	159 20	132,833 02
Invoice	02/08/2005	SS-TN-615-20050208	BellSouth	SS-TN-615-20050208	119 40	119 40	132,952 42
Invoice	03/08/2005	SS-TN-615-20050308	BellSouth	SS-TN-615-20050308	288 55	288 55	133,240 97
Invoice	04/08/2005	SS-TN-615-20050408	BellSouth	SS-TN-615-20050408	457 70	457 70	133,698 67
Invoice	05/08/2005	SS-TN-615-20050508	BellSouth	SS-TN-615-20050508	99 50	99 50	133,798 17
Invoice	06/08/2005	SS-TN-615-20050608	BellSouth	SS-TN-615-20050608	89 55	89 55	133,887 72
Invoice	07/08/2005	SS-TN-615-2	BellSouth	SS-TN-615-20050708	99 50	99 50	133,987 22
Total SS Tennessee						1,661 65	
Invoice	11/08/2003	TF-TN-615-20031108	BellSouth	TF-TN-615-20031108		167 78	134,155 00
Payment	05/17/2005	Direct Deposit	BellSouth	TF-TN-615-20031108		-167 78	133,987 22
Invoice	12/08/2003	TF-TN-615-20031208	BellSouth	TF-TN-615-20031208		241 00	134,228 22
Payment	05/17/2005	Direct Deposit	BellSouth	TF-TN-615-20031208		-241 00	133,987 22
Invoice	01/08/2004	TF-TN-615-20040108	BellSouth	TF-TN-615-20040108		403 82	134,391 04
Payment	05/17/2005	Direct Deposit	BellSouth	TF-TN-615-20040108		-403 82	133,987 22
Invoice	02/08/2004	TF-TN-615-20040208	BellSouth	TF-TN-615-20040208		1,208 98	135,196 20
Invoice	02/08/2004	TF-TN-615-20040208	BellSouth	TF-TN-615-20040208		1,208 98	136,405 18
Payment	05/17/2005	Direct Deposit	BellSouth	TF-TN-615-20040208		-1,208 98	135,196 20
Invoice	03/08/2004	TF-TN-615-20040308	BellSouth	TF-TN-615-20040308		2,070 90	137,267 10
Payment	05/17/2005	Direct Deposit	BellSouth	TF-TN-615-20040308		-2,070 90	135,196 20
Invoice	04/08/2004	TF-TN-615-20040408	BellSouth	TF-TN-615-20040408		1,780 42	136,976 62
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040408		-1,780 42	135,196 20
Invoice	05/08/2004	TF-TN-615-20040508	BellSouth	TF-TN-615-20040508		1 439 78	136,635 98
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040508		-1,439 78	135,196 20
Invoice	06/08/2004	TF-TN-615-20040608	BellSouth	TF-TN-615-20040608		1,079 94	136,276 14
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040608		-1,079 94	135,196 20
Invoice	07/08/2004	TF-TN-615-20040708	BellSouth	TF-TN-615-20040708		994 02	136,190 22

**RBOC Tracker**  
**Account QuickReport**  
**All Transactions**

Type	Date	Num	Name	Memo	Open Balance	Amount	Balance
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040708		-994 02	135,196 20
Invoice	08/08/2004	TF-TN-615-20040808	BellSouth	TF-TN-615-20040808		843 38	136,039 58
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040808		-843 38	135,196 20
Invoice	09/08/2004	TF-TN-615-20040908	BellSouth	TF-TN-615-20040908		675 32	135,871 52
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20040908		-675 32	135,196 20
Invoice	10/08/2004	TF-TN-615-20041008	BellSouth	TF-TN-615-20041008		645 54	135,841 74
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20041008		-645 54	135 196 20
Invoice	11/08/2004	TF-TN-615-20041108	BellSouth	TF-TN-615-20041108		596 82	135,793 02
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20041108		-596 82	135,196 20
Invoice	12/08/2004	TF-TN-615-20041208	BellSouth	TF-TN-615-20041208		633 36	135,829 56
Payment	05/18/2005	Direct Deposit	BellSouth	TF-TN-615-20041208		-633 36	135,196 20
Invoice	01/08/2005	TF-TN-615-20050108	BellSouth	TF-TN-615-20050108	621 18	621 18	135,817 38
Invoice	02/08/2005	TF-TN-615-20050208	BellSouth	TF-TN-615-20050208	901 32	901 32	136,718 70
Invoice	03/08/2005	TF-TN-615-20050308	BellSouth	TF-TN-615-20050308	1,084 02	1,084 02	137,802 72
Invoice	04/08/2005	TF-TN-615-20050408	BellSouth	TF-TN-615-20050408	1,111 46	1,111 46	138,914 18
Invoice	05/08/2005	TF-TN-615-20050508	BellSouth	TF-TN-615-20050508	882 01	882 01	139,796 19
Invoice	06/08/2005	TF-TN-615-20050608	BellSouth	TF-TN-615-20050608	989 37	989 37	140,785 56
Invoice	07/08/2005	TF-TN-615-2	BellSouth	TF-TN-615-20050708	179 76	179 76	140,965 32
Invoice	07/08/2005	TF-TN-615-2	BellSouth	TF-TN-615-20050708	146 16	146 16	141,111 48
Invoice	07/08/2005	TF-TN-615-2	BellSouth	TF-TN-615-20050708	743 15	743 15	141,854 63
Total TF Tennessee						7,867 41	
Total DPI Teleconnect					141,854 63	141,854 63	141,854 63
Total Promotional					141,854 63	141,854 63	141,854 63
Total BellSouth					141,854 63	141,854 63	141,854 63
Total Accounts Receivable					141,854 63	141,854 63	141,854 63
<b>TOTAL</b>					<b>141,854 63</b>	<b>141,854 63</b>	<b>141,854 63</b>